

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**BUSEY BANK,**

**Plaintiff,**

**v.**

**BENJA INCORPORATED, et al.,**

**Defendants.**

**Case No. 4:20-cv-01473-HEA**

**DEFENDANT ANDREW J. CHAPIN'S MOTION TO STAY PROCEEDINGS**

COMES NOW Defendant Andrew J. Chapin ("**Chapin**"), by and through undersigned counsel, and for his Motion to Stay Proceedings, states as follows:

1. On October 9, 2020, Plaintiff Busey Bank ("**Plaintiff**") had Chapin served with the Summons and Petition, both in his individual capacity and in his capacity as an officer of co-defendant Benja Incorporated ("**Benja**").

2. On October 15, 2020, Benja filed a Chapter 11 Petition in the United States Bankruptcy Court for the Northern District of California, so the instant case is already stayed as to Benja as a result of the bankruptcy-imposed automatic stay.

3. On or about November 23, 2020, the United States of America filed a Criminal Complaint against Chapin in the United States District Court for the Northern District of California.

4. The criminal case and the instant case are so interrelated that Chapin cannot protect himself in this civil case by selectively invoking his Fifth Amendment privilege, and the allegations in the two cases overlap so much that effective defense of both is impossible.

5. A balancing of the applicable interests strongly supports staying this case.

6. If a stay is not granted, Plaintiff will likely take a judgment for more than \$5,000,000 against Chapin, unopposed, without there ever being a full and fair adjudication on the merits, and still this case would linger on the Court's docket as to Benja until the Chapter 11 runs its course.

7. Chapin will suffer substantial and irreparable harm if this case proceeds and he is forced to choose between asserting and preserving his constitutional right against self-incrimination and defending himself in this matter.

8. Chapin also requests that his current answer deadline—December 8, 2020—be extended while this motion is pending.

9. Chapin incorporates by reference the memorandum filed contemporaneously herewith.

WHEREFORE, Defendant Andrew J. Chapin respectfully requests this Court's orders (1) staying this case until final disposition of the criminal case, (2) continuing the December 8<sup>th</sup> answer deadline until after this motion is ruled on, and (3) for such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: December 3, 2020

MASON LAW FIRM LLC

By: /s/ Ryan J. Mason

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ANDREW J. CHAPIN

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was electronically filed using the CM/CEF system on December 3, 2020, and service shall be made by the CM/ECF system on counsel of record, including the following:

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